

NICOLETTI HORNIG & SWEENEY  
John A.V. Nicoletti (JN-7174)  
Attorneys for Plaintiffs  
Wall Street Plaza  
88 Pine Street, 7<sup>th</sup> Floor  
New York, New York 10005-1801  
Tel: (212) 220-3830  
Fax: (212) 220-3780  
Our File No.: 42000055 JAVN/RAN/FK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
FIREMAN'S FUND INSURANCE  
COMPANY, ONE BEACON INSURANCE  
COMPANY, NATIONAL LIABILITY AND  
FIRE INSURANCE COMPANY and QBE  
MARINE & ENERGY SYNDICATE 1036,

Plaintiffs,

-against-

GREAT AMERICAN INSURANCE  
COMPANY OF NEW YORK, MAX  
SPECIALTY INSURANCE COMPANY  
and SIGNAL INTERNATIONAL, LLC

Defendants.  
-----X

10-cv-1653 (LAK)

**AFFIDAVIT OF  
JOHN A.V. NICOLETTI, ESQ.  
IN SUPPORT OF MOTION  
TO STRIKE AFFIRMATIVE  
DEFENSES OF GREAT  
AMERICAN INSURANCE  
COMPANY OF NEW YORK**

STATE OF NEW YORK     )  
                                      :     SS.  
COUNTY OF NEW YORK )

JOHN A.V. NICOLETTI, being duly sworn, deposes and says:

1.     I am a member of the firm of Nicoletti Hornig & Sweeney, attorneys for Plaintiffs Fireman's Fund Insurance Company ("FFIC"), One Beacon Insurance Company ("One Beacon"), National Liability and Fire Insurance Company ("National Liability") and QBE Marine & Energy Syndicate 1036 ("QBE") in the above-entitled action, am duly admitted to the practice of law before the State and Federal Courts of New York including

this Honorable Court, and am fully familiar with the facts and circumstances surrounding this litigation including the pleadings and proceedings heretofore had herein.

2. This Affidavit is submitted in support of Plaintiffs' Motion to Strike the Twelfth and Thirteenth Affirmative Defenses of Defendant Great American Insurance Company of New York ("Great American") pursuant to Rules 12(f) and 9(b) of the Federal Rules of Civil Procedure. The purpose of this Affidavit is to present the relevant evidence before the Court.

3. A true and correct copy of the Complaint filed on March 2, 2010 [Docket No. 1] is annexed hereto as Exhibit "1".

4. A true and correct copy of Defendant Great American's Answer filed on April 6, 2010 [Docket No. 10] is annexed hereto as Exhibit "2".

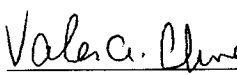
5. A true and correct copy of Great American's Reservation of Rights letter dated November 19, 2009 is annexed hereto as Exhibit "3".

WHEREFORE it is respectfully requested that this Court grant Plaintiffs' Motion to Strike Great American's Twelfth and Thirteenth Affirmative Defenses.



JOHN A.V. NICOLETTI (JN-7174)

Sworn to before me this  
23rd day of April, 2010

  
Notary Public  
VALERIE A. CLUNE  
Notary Public, State of New York  
No. 01CL4880479  
Qualified in Queens County  
Certificate Filed in New York County  
Commission Expires Dec. 15, 2014